

IFW

Case No. LEIGH-018A
Patent App. 10/749,263

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|--------------------------------|---|-------------------|
| Applicant(s): Lisa Leighton |) | |
| |) | |
| Serial No.: 10/749,263 |) | Examiner: unknown |
| |) | |
| Filed: December 31, 2003 |) | Art Unit: 3749 |
| |) | |
| Title: UNIVERSAL GAS VALVE KEY |) | |
| _____ |) | |

PETITION TO MAKE SPECIAL (BASED UPON INFRINGEMENT)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

Pursuant to Section 708.02 (II) of the Manual of Patent Examining Procedure, the Applicant hereby petitions the Commissioner for an order to make the examination of the above-identified application special based upon infringement.

In support of this Petition, Applicant submits herewith a Declaration of Kit M. Stetina, Esq. as Exhibit A along with its associated Exhibits 1 and 2 and a Declaration of Lisa Leighton as Exhibit B along with its associated Exhibits 1, 2 and 3. Mr. Stetina is a registered patent lawyer and attorney of record in the above-identified application. Ms. Leighton is the Applicant of the above-identified application. Exhibits 1 and 2 of both Declarations are photographs of alleged infringing products identified as VK15 product and VK16 product. Additionally, Exhibit 3 of the Leighton Declaration is a photograph of a receipt for the purchase of the VK15 product and the VK16 product.

Mr. Stetina, in his Declaration, alleges that he has good knowledge of the pertinent prior art.

Further, Mr. Stetina, in his Declaration, alleges that the VK15 product and the VK16 product infringe at least some of the claims of the above-identified application. The basis for such allegation derives from Mr. Stetina's rigid comparison between the VK15 product and the VK16 product with the claims of the above-identified application, after which Mr. Stetina opined that at least some of the claims of the above-identified application are infringed by the VK15 product and the VK16 product.

Ms. Leighton, in her Declaration, alleges that the VK15 and the VK16 products are actually on the market. The basis for her allegation derives from her observation that the VK15 product and the VK16 product were offered for sale at Barbeques Galore located in Corona, California and her subsequent purchase of the VK15 product and the VK16 product.

Accordingly, there are infringing products actually on the market: Mr. Stetina believes that the VK15 product and the VK16 product infringe at least some of the claims of the above-identified application, and Ms. Leighton saw and purchased the VK15 product and the VK16 product – believed to be infringing - from Barbeques Galore located in Corona, California.


Therefore, Applicant respectfully requests that the Commissioner of Patents grant the order to make the examination of the above-identified application special based upon infringement. Enclosed herewith is a petition fee of \$130 as set forth in 37 CFR 1.17(h) and

required by 37 CFR 1.102. If additional fees are due, please charge our Deposit Account No. 19-4330. This Request is filed herewith in triplicate.

Respectfully submitted,

Dated: 12/20/04

Customer No.: 007663

By: 

Attorney Kit M. Stetina

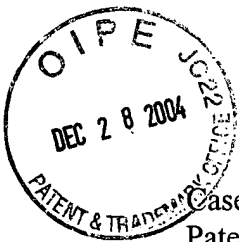
Registration No. 29,445

STETINA BRUNDA GARRED & BRUCKER

75 Enterprise, Suite 250

Aliso Viejo, CA 92656

(949) 855-1246



Case: LEIGH-018A
Patent App. 10/749,263

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|--------------------------------|---|-------------------|
| Applicant(s): Lisa Leighton |) | |
| |) | |
| Serial No.: 10/749,263 |) | Examiner: unknown |
| |) | |
| Filed: December 31, 2003 |) | Group No.: 3749 |
| |) | |
| Title: UNIVERSAL GAS VALVE KEY |) | |
| _____ |) | |

**DECLARATION OF KIT M. STETINA IN SUPPORT OF
PETITION TO MAKE SPECIAL (BASED ON INFRINGEMENT)**

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Dear Sir/Madam:

I, Kit M. Stetina, a registered patent lawyer and attorney of record in the above-identified patent application, declare the following:


1. I have personal knowledge of the statements made herein.
2. I inspected the VK15 product and the VK16 product respectively shown in Exhibits 1 and 2.
3. After I rigidly compared the VK15 product and the VK16 product with the claims of the above-identified application, I opined that some of the claims of the above-identified application are infringed by the VK15 product and the VK16 product.
4. I have good knowledge of the pertinent prior art.
5. I declare that all statements made herein of my own knowledge are true and that

all statements made on information and belief are believed to be true and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code and as such, willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Dated: 12/20/04

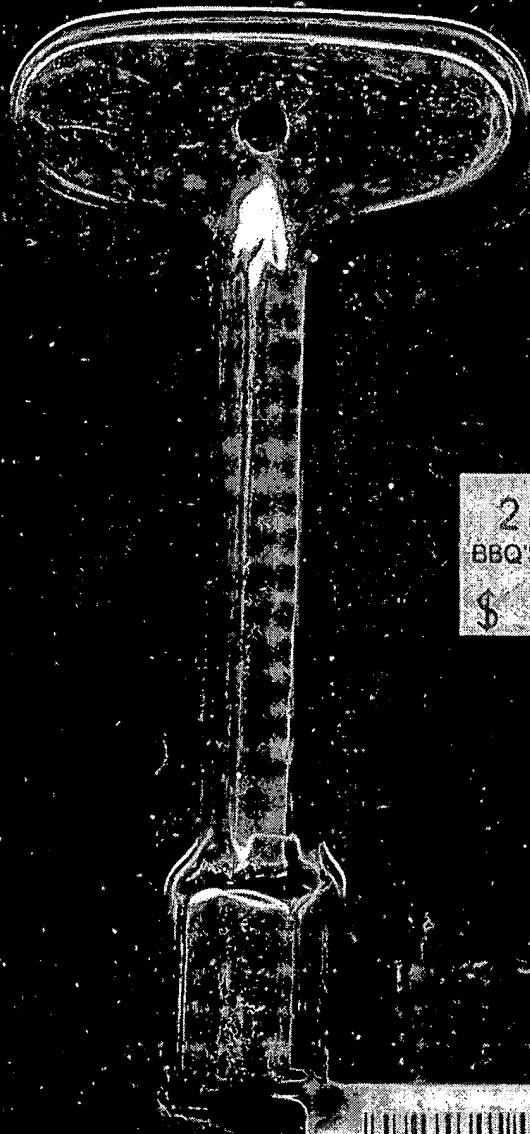
Customer No.: 007663

By: 
Kit M. Stetina
Registration No. 29,445
STETINA BRUNDA GARRED & BRUCKER
75 Enterprise, Suite 250
Aliso Viejo, California 92656
(949) 855-1246

O.I.P.E.
DEC 28 2004
PATENT & TRADEMARK

SOLID BRASS GAS VALVE KEY

- APPROX. 4" LONG
- SIZE TO FIT. 1/4" & 5/16" VALVE



267955
BBQ'S GALORE
\$ 7.99



DAGAN INDUSTRIES INC.
SYLMAR, CA.

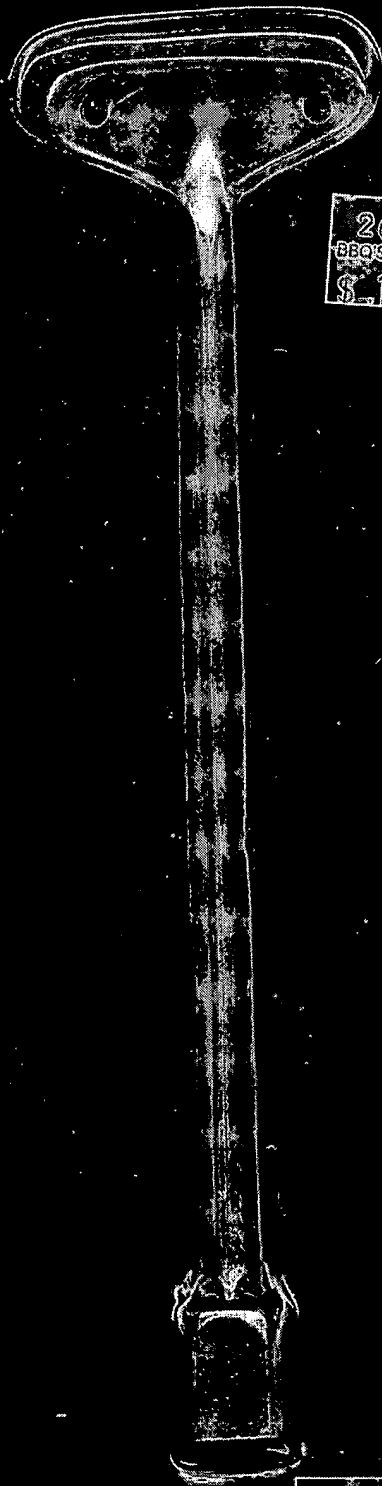
MADE IN CHINA



MODEL NO. VK15

SOLID BRASS GAS VALVE KEY

- APPROX. 8" LONG
- SIZE TO FIT. 1/4" & 5/16" VALVE



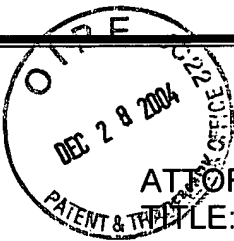
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EBC'S CALORE
\$11.99



DAGAN INDUSTRIES INC.
SYLMAR, CA.

MADE IN CHINA





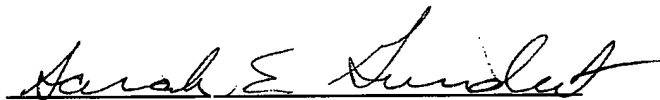
ATTORNEY DOCKET NO: LEIGH-018A
TITLE: UNIVERSAL GAS VALVE KEY

Certificate of Mailing under 37 CFR 1.8 or 37 CFR 1.10

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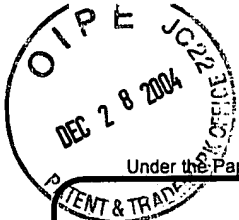
on December 21, 2004


(Signature)

Sarah E. Gundert
(Typed name of person signing certificate)

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

1. Certificate of Mailing;
2. Return Receipt Postcard;
3. Transmittal;
4. Petition to Make Special (Based Upon Infringement) (3 pages); and
5. Exhibits A and B (9 pages).



PTO/SB/21 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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| | | |
|---|------------------------|-------------------|
| TRANSMITTAL FORM (to be used for all correspondence after initial filing) | Application Number | 10/749,263 |
| | Filing Date | December 31, 2003 |
| | First Named Inventor | Lisa Leighton |
| | Art Unit | 3749 |
| | Examiner Name | unknown |
| Total Number of Pages in This Submission | Attorney Docket Number | LEIGH-018A |

| ENCLOSURES (Check all that apply) | | |
|--|---|--|
| <input type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> After Allowance Communication to Group |
| <input type="checkbox"/> Fee Attached | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input type="checkbox"/> Amendment/Reply | <input type="checkbox"/> Petition | <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Power of Attorney, Revocation | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Change of Correspondence Address | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Terminal Disclaimer | Petition to Make Special (Based Upon Infringement) |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> Request for Refund | |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | <input type="checkbox"/> CD, Number of CD(s) _____ | |
| <input type="checkbox"/> Response to Missing Parts/Incomplete Application | Remarks | |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | |
|-------------------------|--|
| Firm or Individual name | Kit M. Stetina STETINA BRUNDA GARRETT & BRUCKER - Customer No. 007663 |
| Signature | |
| Date | December 21, 2004 |

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. Washington, DC 20231 on this date:

| | | | |
|-----------------------|------------------|------|------------|
| Typed or printed name | Sarah E. Gundert | | |
| Signature | | Date | 12-21-2004 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Case: LEIGH-018A
Patent App. 10/749,263

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|--------------------------------|---|-------------------|
| Applicant(s): Lisa Leighton |) | |
| |) | |
| Serial No.: 10/749,263 |) | Examiner: unknown |
| |) | |
| Filed: December 31, 2003 |) | Group No.: 3749 |
| |) | |
| Title: UNIVERSAL GAS VALVE KEY |) | |
| |) | |

**DECLARATION OF LISA LEIGHTON IN SUPPORT OF
PETITION TO MAKE SPECIAL (BASED ON INFRINGEMENT)**

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Dear Sir/Madam:

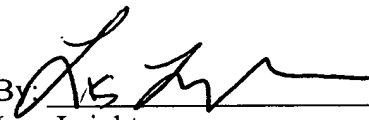
I, Lisa Leighton, declare the following:

1. I have personal knowledge of the statements made herein.
2. I am the Applicant of the above-identified patent application.
3. On November 29, 2004, I saw the VK15 product and the VK16 product respectively shown in Exhibits 1 and 2 at Barbeques Galore located at 390 McKinley Street, Corona, California.
4. I purchased the VK15 product and the VK16 product and submit herewith a copy of the receipt for such purchase as Exhibit 3. Accordingly, I allege that the VK15 product and the VK16 products are actually on the market.
5. I declare that all statements made herein of my own knowledge are true and that

all statements made on information and belief are believed to be true and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code and as such, willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Dated: 12/14/04

By: 

Lisa Leighton
Chief Executive Office
Canterbury Enterprises



SOLID BRASS GAS VALVE KEY

- APPROX. 4" LONG
- SIZE TO FIT. 1/4" & 5/16" VALVE



267955
BBQ SIGALORE
\$ 7.99



DAGAN INDUSTRIES INC.
SYLMAR, CA.



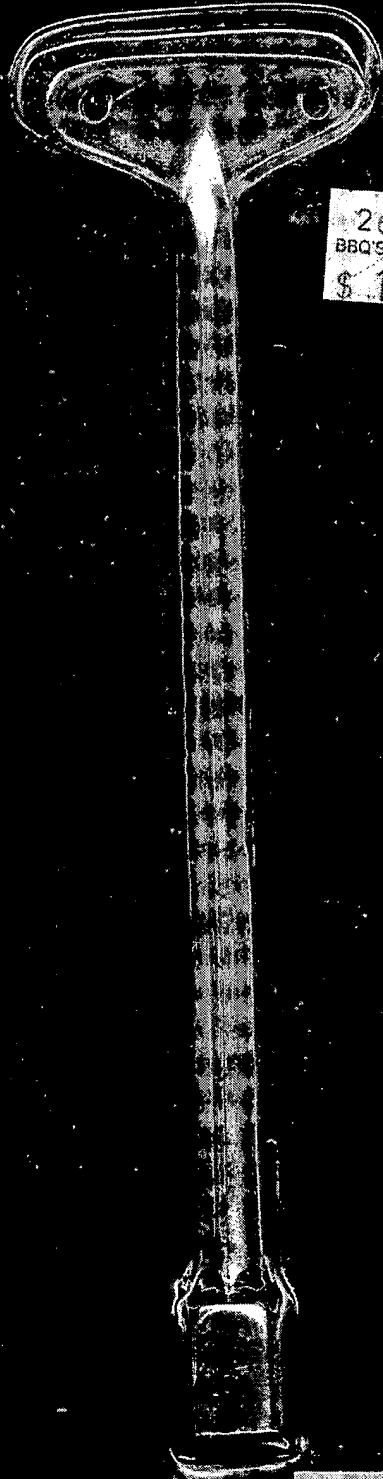
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MODEL NO.: VK15

MADE IN CHINA

SOLID BRASS GAS VALVE KEY

- APPROX. 8" LONG
- SIZE TO FIT. 1/4" & 5/16" VALVE

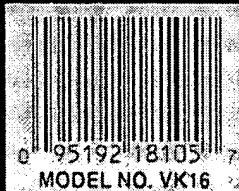


267989
BBQ'S GALORE
\$ 11.99



DAGAN INDUSTRIES INC.
SYLMAR, CA.

MADE IN CHINA



95192 18105 7
MODEL NO. VK16

Barbeques Galore
Store #10140
390 McKinley Street
Corona, CA 91719
909-549-9901

11:17AM 10140 1 Assoc: SCOTT

92503

REGULAR SALE TRANSACTION # 530

267989 UNIT, 8"KEY BR33 1/485/1
DKP88 10 11.99 11.99
267985 UNIT, 09NTE KEY=CHRM 1/48
DKFC3 10 7.99 7.99

SUB-TOTAL

TAX: 7.7500%

TOTAL

Master Card
#####4923 0605
AUTH. CODE 029100

Change

Sales Person(s) 14003

Sales Percent(s) 100%

10140 1 14003 530 11/29/04 11:20 1

Thank You For Shopping
At BARBEQUES GALORE
America's LARGEST chain

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